

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 433 of 2001

Between:

Mekala Nageswaramma W/o.Chalapathi Rao
R/o. Bharthapuram , Nadigadda Post, Vinukonda Mandal ,
Guntur District.

..... PETITIONER

AND

- 1 SCDR/Officer on Spl.Duty,
GDCC Bank Ltd , Tenali. (Guntur Dist , Central Coop Bank Ltd Tenali)
- 2 Seniorr Inspector/Sale Officer
GDCC Bank Ltd , Narsaraopet ,
Guntur District.
- 3 Thimmayapalem, Primary Agriculture Coop Society,

Thimmayapalem, Vinukonda Mandal, Guntur District.

Represented by its President

- 4 The A.P. Cooperative Tribunal,
Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order more particularly in the nature of Writ of Certiorari by calling for the records in the O.A.No.86 of 1999 on the file of the A.P. Cooperative Tribunal , Vijayawada , and set-aside the order dated: 2-11-2000, declaring the same as illegal, arbitrary, Unconstitutional.

Counsel for the Petitioner:MR.P.GOPAL DAS , ADVOCATE

Counsel for the Respondent Nos.1, 2 & 4: GP FOR COOPERATION

Counsel for the Respondent No.3: MR. POSANI VENKATESWARLU,

ADVOCATE

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.433 OF 2001

ORDER:

The petitioner obtained loans from third respondent Primary Agricultural Cooperative Society, namely, Timmayapalem Primary Agricultural Cooperative Society, during the years 1982 to 1992 and allegedly repaid the loans. For the purpose of obtaining fresh loan from Andhra Bank, Vinukonda Branch, petitioner also obtained no due certificate issued by third respondent Society on 2.11.1993. When second respondent issued notice of sale in Form No.9 under A.P. Cooperative Societies Rules, 1964 (for short, the Rules), she filed an appeal under Section 76(1) of the A.P. Cooperative Societies Act, 1964 (for short, the Act) being O.A.No.86 of 1999 before fourth respondent Tribunal. She alleged that she never obtained any loan after obtaining no due certificate from third respondent and therefore issue of Notice in Form No.9 and action of the Sales Officer in postponing the sale is illegal. By the impugned order dt.2.11.2000 the learned Tribunal dismissed the appeal holding that appeal against Form No.9 would not lie though appeal would lie against any proceedings in execution in accordance with Rule 52 of the Rules. This is assailed in the Writ Petition.

A reading of Section 76(1) of the Act would belie any contention that even against Form No.9 appeal would lie under Section 76(1) of the Act. As held by this Court in **A.Vema Naidu v. Erracheruvupalle Primary Agricultural Cooperative Society, Chittoor** even in matter of executions for executing recovery certificate under Section 71 or award under Section 62 of the Act appeal would lie before the Tribunal constituted under Section 75 of the Act. But, mere decision of the Sales Officer to postpone sale or notifying sale may not by itself amenable to appeal. In that view of the matter, the Tribunal cannot be said to have committed any error

requiring interference by this Court.

The Writ Petition is devoid of merits and is accordingly dismissed.

(V.V.S.RAO, J)

22.7.2005

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To

- 1 The SCDR/Officer on Spl.Duty,
GDCC Bank Ltd , Tenali. (Guntur Dist , Central Coop Bank Ltd Tenali)
 - 2 The Senior Inspector/Sale Officer
GDCC Bank Ltd , Narsaraopet ,
Guntur District.
 - 3 The President, Thimmayapalem, Primary Agriculture Coop Society,
Thimmayapalem, Vinukonda Mandal, Guntur District.
 - 4 The A.P. Cooperative Tribunal,
Vijayawada.
- 5 2 CCs to G.P. for Cooperation, High Court Bldgs., Hyderabad (OUT)
- 6 2 CD copies
- 7 1 CC to Mr. P.Gopal Das, Advocate
- 8 1 CC to P.Venkateswarlu, Advocate